

**REMARKS**

Claims 1-16 were pending. Claims 6-15 are withdrawn due to election pending the allowance of a generic claim. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

The applicants note that the Examiner has presented a new grounds of rejection, e.g. JP A-58-17723, and has alleged only that applicant's amendment necessitated the new grounds as the basis for finality of the rejection. Yet a close review of the previous submission reveals that claims 1-5 were amended to address matters of form only and thus could not have necessitated the new grounds of rejection since no further search would have been required. Further, the newly cited reference JP A-58-17723 was submitted with a statement under 37 C.F.R. 1.97(e) and not a fee under 37 C.F.R. 1.17(p). Therefore, a final rejection based on the newly submitted art would be improper (*see, e.g.* MPEP, eighth edition, 609.04(b)(II)(A)(1)). Applicants request that the finality of the present rejection be withdrawn to allow applicants full and fair opportunity to address the new grounds of rejection.

The applicants acknowledge and appreciate receiving an initialed copy of the form PTO-1449 which accompanied the Information Disclosure Statement that was filed on August 30, 2005. Applicants further request acknowledgment of the IDS filed on January 5, 2006 and request an initialed copy of the form PTO-1449 filed therewith.

Claims 1-5 stand rejected under 35 USC §102(b) as being allegedly anticipated by Kim, U.S. Patent Application Publication 2002/0000889 A1. The rejection is respectfully traversed.

In responding to applicants' previous remarks, the Examiner alleged that the remarks did not amount to a proper traversal of, as best understood, the Examiner's claim that Kim inherently discloses the claimed second resistor group. Applicants note that in the present and previous

rejection, the Examiner states that the Rv structure of Kim “inherently functions as recited.” Thus, it is not clear whether the Examiner is admitting that Kim fails to disclose the claimed structure, but rather inherently functions as the claimed second resistor group, or whether Kim actually discloses the second resistor group but fails to explicitly disclose the claimed function and thus inherently functions as cited. In either case, the applicants respectfully submit that Kim fails to disclose expressly or inherently the claimed second resistor group in the manner claimed.

For a claim to be anticipated based on inherency, the alleged features must *necessarily* be present. Applicants submit that not only are the features not taught explicitly, but they are not *necessarily* taught and therefore the allegation to inherency is not proper.

For example, the Examiner, as best understood, has maintained the position that the polysilicon resistors (250a, 252a, 254a, 256a) of Kim amount to the claimed second resistor group comprising one or more resistors and that Kim inherently discloses that the second resistor group adjusts a charge/discharge trigger voltage and a charge/discharge time associated with the capacitor of the CR circuit.. The Examiner further alleges that Kim explicitly discloses that the second resistor group has a temperature coefficient that is larger than a temperature coefficient associated with the first resistor group. However, as more fully discussed below, Applicants respectfully disagree.

According to the present specification, two resistors are connected with each other in series. The division voltage value of the two resistors is provided for establishing the oscillation operation point. It is important to note that in accordance with the present invention, the temperature characteristic of the P+ resistor *is positive*, and the temperature characteristic of the polysilicon resistor *is positive* (see, e.g. Fig. 8 of applicants' specification).

According to Kim, each of the four unit resistors, Rv1-Rv4 include two kinds of resistors connected with each other in series. The four unit resistors are connected with each other in parallel. The connection point between the compound resistor and the capacitor is provided to establish the oscillation operation point. However, the compound resistors cannot be said to amount to the claimed second resistor group that adjusts a charge/discharge *trigger voltage* and a charge/discharge time associated with the capacitor of the CR circuit. It is important to note that, unlike the present invention, the temperature characteristics of the resistor items *are inversely proportional* (see, e.g. paragraph [0071], and Fig. 6A and Fig. 6B of Kim). Thus, the P+ resistor temperature characteristic *is positive*, and the temperature characteristic of the poly resistor *is negative*. In such a scenario, the temperature coefficient of a second resistor group is not *necessarily* larger than that of a first resistor group, even if it were to be assumed that the polysilicon resistors (250a, 252a, 254a, 256a) amount to the claimed second resistor group, which applicants vigorously contend they do not.

According to the present specification, the compound resistance value of the first resistor group and the second resistor group, which is one of the factors that determine the oscillation point, has a positive temperature characteristic (see, Fig. 8). To compensate for the temperature characteristic of the compound resistance, the voltage value supplied for the operation point is provided with a temperature coefficient of the second resistor group, in performing the claimed adjusting function associated therewith, e.g. the second resistor group adjusts a charge/discharge trigger voltage and a charge/discharge time associated with the capacitor, so that a temperature change affecting the oscillation point as a function of the temperature coefficient of the compound resistance, is cancelled.

In contrast, Kim describes that the voltage value ( $V_{dda}+V_{sp}$ ) or  $-V_{sp}$  of Fig. 5 is set to maintain the frequency at a certain value. The connection and the resistance value are set to

flatten the compound resistor which determines the oscillation. Thus, the temperature characteristic of the oscillation is cancelled. In this case, the voltage value of  $(V_{dda}+V_{sp})$  or  $-V_{sp}$  is fixed.

Thus, a *prima facie* case of anticipation has not properly been established in that Yamaguchi fails to disclose all of the claimed features as required. The Examiner cannot shift a burden to the applicant with a mere allegation of inherency. Although a *prima facie* case has not properly been made and the burden to rebut the Examiner's allegations has not shifted to the applicant, in order to expedite prosecution, the applicants nevertheless have provided arguments herein as to why the applied art fails to disclose the claimed features.

Accordingly, it is respectfully requested that the rejection of independent claim 1 be reconsidered and withdrawn. Claims 2-5, by virtue of depending from claim 1 are allowable for at least the reasons set forth hereinabove with regard to claim 1.

Claims 1-5 and 16 stand rejected under 35 USC §102(b) as being allegedly anticipated by Yamaguchi, et al., JP A-58-17723 (hereinafter "Yamaguchi"). The rejection is respectfully traversed.

Applicants note that the Examiner considers that because Figure 1 of the drawings and the figure in Yamaguchi are the same, that Yamaguchi clearly [inherently] anticipates the claimed invention. Applicants are not aware of such a legal standard of anticipation and submit that unless Yamaguchi clearly describes or shows each and every claimed feature in the manner claimed, that a *prima facie* case of anticipation is not properly established.

According to Yamaguchi, the two resistors  $R_x$  and  $R$  are connected with each other in series. The division voltage value of the two resistors is provided for establishing the oscillation operation point. It is important to note that, unlike the claimed invention, each resistor is a

diffusion resistor. Since each of the two resistors are of the same kind, the operation point does not vary due to the temperature. That is, Yamaguchi fails to disclose that a temperature coefficient of a second resistor group is larger than that of a first resistor group.

According to the present specification, as noted above, the compound resistance value, which is one of the factors to determine the oscillation, has a positive temperature characteristic (see, e.g. Fig. 8). To compensate for the temperature characteristic of the compound resistance, the voltage value supplied for the operation point is provided with the temperature characteristic associated with the second resistor group, so that the temperature characteristic of the oscillation point determined by the compound resistance is cancelled.

According to Yamaguchi, a resistor is inserted between the first-stage inverter and the capacitor, in order to limit the operation point of the first-stage inverter within a voltage range so that the influence of systematic variations, e.g. tolerance variations, in the value of the input protection resistor of the first-stage inverter on the oscillation frequency is removed. Because the original negative feedback resistor and the above-described resistor are of the diffusion resistor type, any temperature characteristic of the oscillation frequency occurs only according to the temperature coefficient of the diffusion resistor.

Thus, a *prima facie* case of anticipation has not properly been established in that Yamaguchi fails to disclose all of the claimed features as required. Accordingly, it is respectfully requested that the rejection of claim 1 and 16 be reconsidered and withdrawn. Claims 2-5, by virtue of depending from claim 1 are allowable for at least the reasons set forth hereinabove with regard to claim 1.

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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Robert L. Scott, II  
Reg. No. 43,102

Posz Law Group, PLC  
12040 South Lakes Drive, Suite 101  
Reston, VA 20191  
Phone 703-707-9110  
Fax 703-707-9112  
Customer No. 23400